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| APPLICATION NO.                   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/642,732                        | 08/19/2003  | Yoshinori Kojima     | 00684.003512        | 3815             |
| 5514                              | 7590        | 08/05/2005           | EXAMINER            |                  |
| FITZPATRICK CELLA HARPER & SCINTO |             |                      | VO, ANH T N         |                  |
| 30 ROCKEFELLER PLAZA              |             |                      | ART UNIT            |                  |
| NEW YORK, NY 10112                |             |                      | PAPER NUMBER        |                  |
|                                   |             |                      | 2861                |                  |

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/642,732

Applicant(s)

KOJIMA ET AL.

Examiner

Anh T.N. Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 6/17/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/17/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***None-Final Rejection***

***Double patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 3 and 4-7 rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-23 of Kojima et al. (U.S. Pat. 6,869,158) in view of Walker (US Pat. 6,274,880).

Kojima et al. discloses in claims 1-23 a liquid container comprising:

- a reflection member provided in a liquid containing portion and having a plurality of roof mirror assemblies arranged in a predetermined direction, each of said roof mirror assemblies having at least two reflecting surfaces positioned with a predetermined angle therebetween; wherein said reflection member is effective to divide incident light, which is scattering light, into a plurality of light beams by said plurality of roof mirror assemblies and to condense at a

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predetermined position the beams sequentially reflected by the at least two reflecting surfaces of the roof mirror assemblies, and wherein an amount of the liquid in said liquid container is detected on the basis of the light reflected by said reflection member;

- wherein said reflection member is provided on a surface relating to a height of said liquid container;
- a carriage for carrying said liquid container;
- detecting means for detecting an amount of the liquid in said liquid container on the basis of the light;
- wherein said detecting means includes a light emitting source and a photoreceptor; and
- wherein said light emitting source and said photoreceptor are integral with each other.

However, Kojima et al. do not disclose that the reflection member that is provided on an inner surface of said liquid containing portion.

Nevertheless, Walker discloses in Figures 1-5 an ink jet printer comprising a reflection member (117) provided on an inner surface of said a liquid containing portion (203).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teaching of Walker in the Kojima et al. liquid container for the purpose of providing a fluid level sensing system to detect a fluid level in a fluid container.


### ***Response to Applicant's Arguments***

The applicant's arguments with respect to the prior art rejection have been carefully considered and have been traversed in view of the new grounds of rejection over Kojima et al and Walker references.

### ***CONCLUSION***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 8:00 A.M. to 6:00 P.M.. The fax number of this Group 2861 is (571) 273-8300.



ANH T.N. VO  
PRIMARY EXAMINER

August 4, 2005